



USPTO REC'D PC 08 DEC 2005
PCT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Applicant: Eric WILSON
Assignee: Redbank Manor Pty Ltd.
Title of Invention: Search Engine Result Reporter
US National Stage Filed: June 20, 2005
Internat'l App. No.: PCT/AU03/001706
Internat'l Filing Date: December 22, 2003
Priority Date: December 20, 2002
US Serial Number: 10/539,851
Atty Docket No.: 366-003

RECEIVED

20 DEC 2005

Legal Staff
International Division

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage paid, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

12/4/05
Date

Sandra L. Etherton
Sandra L. Etherton

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

**PETITION REQUESTING WITHDRAWAL of HOLDING OF ABANDONMENT
UNDER 37 CFR §1.181(a)**

Applicant petitions the Commissioner to withdraw the holding of abandonment. Attorney for applicant, having firsthand knowledge of the facts, asserts that the US Basic National Fee was filed with the application and within 30 months of the priority date.

I. FACTS

The above-identified application was submitted to the USPTO on June 20, 2005, within 30 months of the priority date of December 20, 2002. The

application was received by the USPTO and assigned a filing date of June 20, 2005 and an application serial number, as indicated on the postcard mailing receipt. A copy of the postcard mailing receipt is attached as Exhibit A. The postcard mailing receipt also indicates that a charge form for \$690 to cover the filing fee was received by the USPTO. A copy of the charge form is enclosed as Exhibit B.

However, the Office did not mail a filing receipt nor a notice of missing fee. See PAIR file history, attached as Exhibit C. On November 28, 2005, the applicant's attorney received a notice of abandonment dated November 18, 2005.

II. WITHDRAWAL of ABANDONMENT

Per 37 CFR 1.181(a), MPEP §711.03(c) (I) (A), and *Delgar v. Schulyer*, 172 USPQ 513 (DDC 1971), an allegation that an Office Action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw and remail the Office action.

37 CFR 1.53(f)(1) requires that a notice of missing fee be sent if the fee is missing and a correspondence address is provided. Applicant's attorney has provided a correspondence address as evidenced by the Notice of Abandonment, however no notice of missing fee was received. Examination of PAIR indicates no such notice was sent. See Exhibit C.

III. ATTESTATIONS

The undersigned attorney attests that a notice of missing fee was not received by the practitioner and that a search of the file jacket and docket records indicates that the Office communication was not received and that it was not mailed by the Office.

The undersigned attorney further attests that the exhibits enclosed herein are true copies of the documents filed and received.

IV. CONCLUSION

Therefore, the Attorney for applicant, having firsthand knowledge of the facts, believes that it submitted the required fee, but that for some reason it was not charged by or received by the USPTO. This problem could not have been remedied sooner because the Attorney for applicant did not know until last week that the fee was deemed missing. For this reason, the application should be revived.

Applicant includes a new charge form for \$690 to cover the US Basic National Filing Fee. Applicant respectfully requests that the Commissioner revive the above-identified application or, in the alternative, mail a notice of missing fee so that Applicant can submit the appropriate fee at that time.

Respectfully submitted,



Sandra L. Etherton,
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Attorney for Applicant
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QUESTIONS

JC10 Rec'd PCT/PTO 20 JUN 2005

MAILING RECEIPT

Atty File No.: 366-003
Applicant: Eric WILSON
Int'l App No.: PCT/AU2003/00170

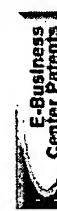
10/539851

The following have been received in the U.S.P.T.O.:
Enclosed are:

- Postcard Mailing Receipt
- Filing Fee (charge form for \$690)
- Transmittal Letter for Submission Under
35 USC 371 (PTO-1390)
- International Application as filed
specification and claims
drawings
- Combined Inventor's Declaration and Power-of Attorney
- Invention Disclosure Statement
- Assignment and cover sheet

Exhibit A

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Search results for application number: 10/539,851	
Application Number:	10/539,851
Customer Number:	33354
Filing or 371(c) Date:	-
Status:	Abandoned -- Incomplete Application (Pre-examination)
Application Type:	Utility
Status Date:	11-18-2005
Examiner Name:	-
Location:	FILE REPOSITORY (FRANCONIA)
Group Art Unit:	2161
Location Date:	11-28-2005
Confirmation Number:	9199
Earliest Publication No.:	-
Attorney Docket Number:	366-003
Earliest Publication Date:	-
Class/ Sub-Class:	-/-
Patent Number:	-
First Named Inventor:	Eric Wilson, ,
Issue Date of Patent:	-
Title Of Invention:	Search Engine Result Reporter

Select Search Option

 Continuity Data Search

File History	
Date	Contents Description
11-18-2005	Abandonment -- Inc. Application under Rule 53(b) - Filing Fee Paid
06-20-2005	Initial Exam Team nn

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Exhibit C

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